



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

10

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/157,018 09/18/98 KILGORE

B MS-80

1

LM02/0913

EXAMINER
----------

LYON, HARR & DEFRANK  
300 ESPLANADE DRIVE  
SUITE 800  
OXNARD CA 93030

LUU, S

ART UNIT	PAPER NUMBER
----------	--------------

2773

DATE MAILED:

09/13/00

7

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

9

**Office Action Summary**

Application N .

09/157,018

Applicant(s)

KILGORE, BENJAMIN

Examiner

Sy D Luu

Art Unit

2773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 November 1999.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-8, and 11-16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5, 14, 9, 11, 13-17, and 19 respectively of copending Application No. 09/156766. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of both

invention involve the same subject of dynamically adjusting data values and preventing conflicts in reponse to remote user input.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maggioncalda et al. ("Maggioncalda", US # 6,012,044).

As per claims 1 and 10, Maggioncalda teaches a method for dynamically displaying data values, comprising: transmitting results and associated sub-items in a predefined format from a server to a remote client through a communications interface in response to a request from the client to the server (fig. 1; col. 6, lines 31-37); processing the results in real time using the client computer in response to user adjustment of the results and the sub-item configuration on the client computer (col. 8, lines 2-8); displaying a first set of results, and dynamically displaying the processed results on a client display device (col. 8, lines 31-36).

Maggioncalda does not explicitly disclose the method to comprise: the transmitting of rules of enforcement of sub-item combinations; preventing sub-item conflicts with the rules of enforcement; and the rules of enforcement for sub-item combination to be processed in the background. However, it would have been obvious for these steps to be necessarily included in a method such as Maggioncalda in order to allow the system to process and display sub-items in combination logically and properly, especially when they are mutually exclusive of each other.

Claim 2 is similar in scope to claim 1, and is therefore rejected under similar rationale.

As per claims 3-4, Maggioncalda further discloses the adjustable interface tools to comprise input boxes for adjusting criteria of associated criteria in real time as well as the interface tools being controls in a dialog box (fig. 4, element 410; col. 8, lines 38-56).

As per claims 5, and 8-9, Maggioncalda does not explicitly disclose the interface tools to include: dynamically coupled check boxes so that designated check boxes dynamically change as a user configures conflicting interface tools constrained by the logical rules of enforcement; at least one previously selected sub-items are automatically deselected when a user selects a new sub-item which conflicts with the at least one previously selected sub-items; and at least one additional sub-items are automatically selected when a user selects a sub-item which requires selection of the at least one additional sub-items. However, these features would have been obvious to an artisan at the time of the invention to include in such an interface tools as that of Maggioncalda in order to help and visibly facilitate user interaction with a constrained set of decision variables.

As per claim 6, Maggioncalda discloses the GUI to have at least one graphical control for allowing the user to dynamically adjust the results and associated sub-items (fig. 4, element 410).

As per claim 7, Maggioncalda teaches the data values to comprise pricing data for at least one object, and the associated sub-items comprise user selectable options for the objects (fig. 4, element 410; col. 8, lines 38-65).

As per claim 11, Maggioncalda further discloses and suggests the remote processing of the results and associated sub-items to continue in response to user interaction with the results and associated sub-items on the client display device after the communications interface between the server and the client has been terminated (col. 8, lines 2-8).

As per claim 12, Maggioncalda discloses the GUI to have at least one graphical control for allowing the user to dynamically adjust the displayed data and sub-items (fig. 4, element 410).

Claim 13 is similar in scope to claim 1, and is therefore rejected under similar rationale.

As per claim 14, the limitation of this claim has already been addressed in the rejection of claim 1, and therefore would have been rejected under similar rationale.

Claim 15 is similar in scope to claim 11, and is therefore rejected under similar rationale.

Claims 16-17 are similar in scope to claims 8-9 respectively, and are therefore rejected under similar rationale.

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Douglis et al. (U.S. # 6,021,426) teaches a method and apparatus for dynamic data transfer on a web page.

Wren (U.S. # 6,055,514) teaches a system for marketing foods and services utilizing computerized central and remote facilities.

*Responses*

6. Responses to this action should be mailed to:

**Commissioner of Patents and Trademarks  
Washington, D.C. 20231.**

If applicant desires to fax a response, (703) 308-9051(52) may be used for formal communications or (703) 308-6606 for informal or draft communications.

Please label "PROPOSED" or "DRAFT" for informal facsimile communications. For after final responses, please label "AFTER FINAL" or "EXPEDITED PROCEDURE" on the document.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

*Inquires*

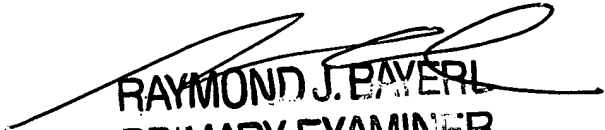
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Sy D. Luu** whose telephone number is (703) 305-0409. The examiner can normally be reached on **Monday - Thursday** from 6:30 am to 4:00 pm. The examiner can also be reached on alternate **Friday**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Matt Kim**, can be reached on (703) 305-3821.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.

Sy D. Luu  
Patent Examiner  
September 11, 2000

sdl

  
**RAYMOND J. BAVERL  
PRIMARY EXAMINER  
ART UNIT 2773**